IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

Cr.A. No.99/2001

Reserved on.28.12.2007

Decided on.31.12.2007

State of H.P. **…Appellant.**

Versus

Raghubir Singh. **…Respondent**

Coram

The Hon'ble Mr. Justice Rajiv Sharma, J.

Whether approved for reporting ?[1]. No.

For the Appellant : Mr. V.K. Verma, Addl. Advocate General

For the respondents Mr. Rahul Mahajan, Advocate.

Rajiv Sharma, J.

The respondent was prosecuted in criminal case No.9-2 of 1996 for offences punishable under sections 279, 337 and 338 of the Indian Penal Code in the court of Judicial Magistrate Ist Class, Nurpur and was acquitted on 4.5.1999. The State has filed this appeal against the acquittal of the respondent-accused.

The brief facts of the case are that on 16.5.1995 at about 2.45 P.M. the complainant was driving bus No. HP-38-3551 from Shahpur Terrace to Jassur. It is alleged that while the bus reached near Bhadwal, Mauza Chhattarahar in the meantime one bus No. HP-38-3636 driven by the accused came from the side of Raja-Ka-Talab in a high speed and went out of control. It is further alleged that as a result of high speed, bus No. HP-38-3636 collided with bus No. HP-38-3551 from the back side. Both the buses over turned resulting in injuries to the passengers and the

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[1] ***Whether the reporters of Local Papers may be allowed to see the judgment***? No.

complainant. The FIR was registered on the basis of the complaint lodged by PW-1 Ajit Kumar. The prosecution had examined as many as 15 witnesses. The accused-respondent was examined under section 313 of the Code of Criminal Procedure. The trial court on the basis of the evidence led by the prosecution came to the conclusion that it has failed to prove the case against the respondent vide judgment dated 4.5.1999.

The learned Additional Advocate General had strenuously argued that the prosecution has proved its case against the respondent-accused.

Mr. Rahul Mahajan, Advocate had supported the judgment dated 4.5.1999

I have heard the learned counsel for the parties and have gone through the record of the case.

The complainant Ajit Kumar had appeared as PW-1. He has stated that the accident took place due to high speed of the bus being driven by the accused. PW-1 has denied that the accused had blown horn and had given signal to him while following the bus. PW-2 Sushma Devi had admitted categorically in her cross-examination that the bus, which has been following from the behind, had signaled from a distance of about 100 feet. It has also come in the statement of PW-2 that there was drain on the road towards the right side, which was Kucha. PW-3 Puran Chand has supported the version of PW-1. The statement of PW-3 has not been relied upon by the trial court since he was the conductor of the bus driven by the complainant. PW-4 Budhi Singh was declared hostile. Similarly, PW-7 Sunita Devi was also declared hostile. Though PW-5 Som Dutt has stated that the speed of the bus driven by the accused was high, but he has not stated in his statement that the same was being driven in a rash and negligent manner. The other witnesses are formal in nature.

The picture which emerges from the statements of witnesses cited by the prosecution during the course of trial is that there are contradictions in the statement made by them. PW-2 has admitted that the bus which was following had signaled from a distance of about 100 feet. PW-4 and PW-7 have been declared hostile. PW-5 has also not stated that the bus was being driven in a rash and negligent manner by the accused. The trial court after correctly appreciating the evidence led by the prosecution has rightly acquitted the accused-respondent vide judgment dated 4.5.1999.

In view of the observations made hereinabove, this Court will not interfere in the well reasoned judgment of the learned Judicial Magistrate 1st Class, Nurpur acquitting the respondent on 4.5.1999.

Consequently there is no merit in the appeal and the same is dismissed. The bail bonds furnished by the accused are discharged.

(Rajiv Sharma), Judge

December 31,2007
Awasthi